

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:

42381

Date filed:

12-12-2017

State Admin Rule Filing Id:

Time filed:

	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 42a	-
Changed to Admin. Code Ref. (R no.):	R	-	-

- Agency:** Commerce/Division of Occupational and Professional Licensing
Room no.:
Building: Heber M. Wells Building
Street address 1: 160 East 300 South
Street address 2:
City, state, zip: Salt Lake City UT 84111-2316
Mailing address 1: PO Box 146741
Mailing address 2:
City, state, zip: Salt Lake City UT 84114-6741
Contact person(s):

Name:	Phone:	Fax:	E-mail:
Jeff Busjahn	801-530-6789	801-530-6511	jbusjahn@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

- Title of rule or section (catchline):**
Occupational Therapy Practice Act Rule
- Type of notice:**
New ____; Amendment XXX; Repeal ____; Repeal and Reenact ____
- Purpose of the rule or reason for the change:**
The Occupational Therapy Licensing Board and the Division recommend these proposed amendments to clarify the education and examination requirements for licensure as an occupational therapist and an occupational therapy assistant.
- This change is a response to comments from the Administrative Rules Review Committee.**
No XXX; Yes ____
- Summary of the rule or change:**

Sections R156-42a-302b and R156-42a-302d: These two existing sections are deleted as unnecessary and confusing. Section R156-42a-302b simply repeats some of the statutory language in Subsections 58-42a-302(1)(d) and (2)(d), while Section R156-42a-302d needlessly sets apart the examination component of the certification requirement. New Section R156-42a-302a: This proposed new section replaces the deleted Sections R156-42a-302b and R156-42a-302d. This new section clarifies that an applicant shall meet the education and examination requirements of Section 58-42a-302 by holding current certification with the National Board for Certification in Occupational Therapy (NBCOT). Specifically, an applicant for an occupational therapist license shall hold current certification as an Occupational Therapist Registered (OTR), and an applicant for an occupational therapy assistant shall hold current certification as a Certified Occupational Therapy Assistant (COTA). New Section R156-42a-302b: This proposed new section clarifies: (1) that to obtain a license by endorsement, an applicant's license must have been both active and in good standing; and (2) that the phrase "notwithstanding the other requirements of this section" in Subsection 58-42a-302(3) refers only to the modified education, experience, or examination requirements and not the other requirements for licensure, such as the requirement for good moral character as it relates to the functions and responsibilities of the profession.

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ☐; Yes ☒

These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact the state beyond a minimal cost to the Division of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

B) Local government:

Affected: No ☒; Yes ☐

These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact local government.

C) Small businesses ("small business" means a business employing fewer than 50 persons):

Affected: No ☒; Yes ☐

These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact small business.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No ☒ Yes ☐

These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact other persons.

8. Compliance costs for affected persons:

These amendments only clarify the existing requirements for licensure and do not impose any additional compliance cost on any affected person

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

These rule changes only clarify the existing requirements for licensure, and will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact small business. These rule amendments are not expected to impact small or non-small businesses.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

- 10 This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV):

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

Section 58-42a-101

- 11 This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; if none, leave blank):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		

(If this rule incorporates more than two items by reference, please attach additional pages)

- 12 The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 01/31/2018

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):

At (hh:mm AM/PM):

At (place):

- 13 This rule change may become effective on (mm/dd/yyyy): 02/07/2018

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

- 14 Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:

licensing

occupational therapy

- 15 Attach an RTF document containing the text of this rule change (filename): R156-42a.pro

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or
designee, and title:

*W. Ray Walker, Acting
Director*

Date

(mm/dd/yyyy)

: 12/12/2017

eRules v. 2: ProposedRule.doc 09/03/2009 (<http://www.rules.utah.gov/agencyresources/forms/ProposedRule.doc>)

R156. Commerce, Occupational and Professional Licensing.

R156-42a. Occupational Therapy Practice Act Rule.

R156-42a-302a. Qualifications for Licensure - Education and Examination Requirements.

In accordance with Subsections 58-42a-302(1)(d) and (f), 58-42a-302(2)(d) and (f), and 58-42a-302(3)(b), the education and examination requirements for licensure are established as follows:

(1) An applicant for licensure as an occupational therapist shall hold current certification as an Occupational Therapist Registered (OTR) with the National Board for Certification in Occupational Therapy (NBCOT).

(2) An applicant for licensure as an occupational therapy assistant shall hold current certification as a Certified Occupational Therapy Assistant (COTA) with the National Board for Certification in Occupational Therapy (NBCOT).

~~[R156-42a-302b. Qualifications for Licensure -- Education Requirements.~~

~~— The education requirements for licensure, in accordance with Section 58-42a-302, are established as follows:~~

~~— (1) An applicant for licensure as an occupational therapist shall graduate from an occupational therapy program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education.~~

~~— (2) An applicant for licensure as an occupational therapy assistant shall graduate from an occupational therapy assistant program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education.]~~

R156-42a-302b. Qualifications for Licensure - Endorsement or Examination.

(1) In accordance with Section 58-1-302, an applicant for licensure by endorsement under Subsection 58-42a-302(3)(a) shall submit satisfactory evidence that the applicant's license was both active and in good standing.

(2) As used in Subsection 58-42-302(3), the phrase "Notwithstanding the other requirements of this section" refers only to the education, experience, or examination requirements of Section 58-42a-302 as specifically modified by Subsection 58-42-302(3). All other requirements for licensure, such as good moral character as it relates to the functions and responsibilities of the profession, shall still apply.

~~[R156-42a-302d. Qualifications for Licensure -- Examination Requirements.~~

~~— The examination requirements for licensure, in accordance with Section 58-42a-302, are established as follows:~~

~~— (1) An applicant for licensure as an occupational therapist shall pass the examination for certification from the National Board for Certification in Occupational Therapy as an occupational therapist registered.~~

~~— (2) An applicant for licensure as an occupational therapy assistant shall hold current certification from the National Board for Certification in Occupational Therapy as a certified occupational therapy assistant.]~~

KEY: licensing, occupational therapy

Date of Enactment or Last Substantive Amendment: [~~June 8,~~
~~2017~~] 2018

Notice of Continuation: January 21, 2014

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a);
58-1-202(1)(a); 58-42a-101

Appendix: Regulatory Impact Analysis for Small and Non-Small Businesses

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

These rule amendments are not expected to impact small or non-small businesses.